IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3820 OF 2007

Shri Gopinath Harishchandra Salaskar ..Petitioner

Vs.

Shri Vinod Devendra Varun & ors. ..Respondents

Mr. N.V. Gangal for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : June 07, 2007.

P.C.:

1. Heard Mr. Gangal the learned counsel for the petitioner who had filed Application No.5 of 2003 under Section 22 of the Maharashtra Rent Control Act, 1999. Said application was allowed. Subsequently Misc. Application No. 17 of 2004 came to be filed by one Mrs. Manisha M. Sagvekar as an objection petition and by the said application she objected to the execution of order and decree passed in Application No. 5 of 2003 on 4/9/2003. The Competent Authority allowed Misc. Application No. 17 of

2004 and held that the present petitioner did not have any evidence to show that he was the landlord of the suit premises though there was some evidence to show that he was in possession of the suit premises. The petitioner, therefore, approached the Lower Appellate Authority i.e. Divisional Commissioner in Appeal No. 113 of 2005 and the appeal came to be dismissed on 9/9/2005. Hence, this petition under Article 227 of the Constitution.

2. The Lower Appellate Authority went through the record in eviction Application No. 5 of 2003 and agreed with the findings recorded by the Competent Authority while allowing Misc. Application No. 17 of 2004 that the petitioner was not the owner of the suit premises at the relevant time and there was no proof to show that Shri Vinod Devendra Varun was residing in the suit premises. The Lower Appellate Authority recorded a finding that the objection petitioner Mrs. Manisha Sagvekar was in possession of the suit premises since long and, therefore, the Competent Authority was right in allowing Misc. Application No. 17 of 2004. Even in this petition there is no

material to show that the petitioner is the owner of the suit premises and, therefore, the concurrent view taken by both the authorities below cannot be termed as perverse or patently illegal so as to call for interference under Article 227 of the Constitution.

3. The petition is rejected summarily. It is clarified that this order will not come in the way of the petitioner to get his title adjudicated by filing a civil suit.

(B.H. Marlapalle,J.)